

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 999

Introduced by Assembly Member Jerome Horton

February 20, 2003

An act to add Section 1367.69 to the Health and Safety Code, to add Section 10119.4 to the Insurance Code, and to add Section 14132.27 to the Welfare and Institutions Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 999, as amended, Jerome Horton. Medi-Cal: dental fillings.

~~Existing law provides for the regulation of health care service plans by the Department of Managed Health Care, under the direction of the Director of Managed Health Care.~~

~~This bill would require the director to request, in writing, health care service plans doing business in the state to require plan providers to allow health care plan enrollees to elect to receive alternatives to mercury-based fillings.~~

~~Existing law provides for the regulation of disability insurers providing health care coverage by the Insurance Commissioner.~~

~~This bill would require the Insurance Commissioner to request, in writing, disability insurers doing business in the state that provide dental care coverage to allow a covered individual to elect to receive alternatives to mercury-based fillings.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Existing law includes emergency and essential diagnostic and restorative dental services, and dental prophylaxis cleanings and dental examinations within the scope of benefits that may be provided to eligible recipients under the Medi-Cal program.

~~This bill would authorize Medi-Cal recipients-providers to elect to receive alternatives to mercury-based dental fillings under the Medi-Cal program, would require participating dentists to post a notice regarding exposure to mercury in dental fillings, and would require the Insurance Commissioner to request, in writing, insurance companies to allow enrollees to elect to receive alternatives to mercury-based fillings prescribe, after consultation with the beneficiary, dental fillings that are an alternative to mercury amalgam dental fillings.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 ~~(a) The major ingredient of amalgam fillings, 45 to 54 percent,~~
4 ~~according to the Dental Board of California, is mercury, a toxin~~
5 ~~known to the State of California to cause reproductive harm or~~
6 ~~birth defects. The common term “silver” fillings is inaccurate~~
7 ~~because there is substantially more mercury than silver in these~~
8 ~~fillings.~~

9 ~~(b) Mercury-based dental fillings, known as amalgam or~~
10 ~~“silver” are a subject of increasing health and environmental~~
11 ~~controversy. On January 7, 2003, an order of the Superior Court~~
12 ~~of the City and County of San Francisco required Proposition 65~~
13 ~~notices to be provided to all California dentists to make all~~
14 ~~consumers aware that amalgam fillings cause exposure to~~
15 ~~mercury. On December 31, 2002, the United States Food and Drug~~
16 ~~Administration published the recommendations of the~~
17 ~~Government of Canada, that children, pregnant women, and~~
18 ~~people with kidney problems or mercury allergies not receive~~
19 ~~mercury fillings.~~

20 ~~(c) Alternatives to mercury-based dental fillings are available~~
21 ~~for any filling. Studies show that about one-fourth of dentists never~~
22 ~~place mercury-based dental fillings.~~

~~(d) Consumers of California, therefore, need the right to choose alternatives to mercury-based dental fillings.~~

~~(e) Low-income consumers lack this right, because the Medi-Cal program often only pays for mercury-based dental fillings, even for children and pregnant women for whom the state and federal government have now issued warnings.~~

~~(f) Insured Californians often also lack this right, because some insurance plans provide coverage for mercury fillings only in back teeth.~~

~~(g) The Dental Board of California~~

~~(a) The Medi-Cal program, which is administered by the State Department of Health Services, has defined a scope of dental benefits that may limit a patient's choice of treatment.~~

~~(b) Dentists have an interest in providing patients with all currently available treatment options.~~

~~(c) As required by Section 1648.10 of the Business and Professions Code, the Board of Dental Examiners of California has prepared a dental materials fact sheet that is provided to every new patient and to patients of record prior to the performance of dental restoration work. The patient acknowledges receipt of this fact sheet with his or her signature. Additionally, the dentist needs to provide this fact sheet only once to each patient unless the fact sheet is subsequently revised.~~

~~(d) According to the Board of Dental Examiners of California, the fact sheet is intended to accomplish both of the following goals:~~

~~(1) Encourage discussion between patient and dentist about the selection of restorative dental materials best suited for the patient's dental needs.~~

~~(2) Demonstrate that dental professionals and the public are concerned about the safety of dental treatment and any potential health risks that are associated with the materials used to restore teeth.~~

~~(e) If a dentist, in consultation with the patient, determines that a treatment option not included in the benefits of the Denti-Cal program is within the standard of care, the dentist should have the choice of providing that treatment.~~

~~(f) The Board of Dental Examiners of California enacted a resolution urging state policies that give low-income consumers the same choices in dental fillings as those enjoyed by all other consumers.~~

~~SEC. 2. Section 1367.69 is added to the Health and Safety Code, to read:~~

~~1367.69. The director shall, in writing, request health care service plans doing business in the state to require plan providers to allow health care plan enrollees to elect to receive alternatives to mercury-based fillings.~~

~~SEC. 3. Section 10119.4 is added to the Insurance Code, to read:~~

~~10119.4. The Insurance Commissioner shall, in writing, request any insurer doing business in this state that provides dental care coverage to allow a covered individual to elect to receive alternatives to mercury-based fillings.~~

~~SEC. 4. Section 14132.27 is added to the Welfare and Institutions Code, to read:~~

~~14132.27. (a) Any beneficiary under this chapter, when receiving dental services that include the provision of dental fillings, may elect to receive dental fillings that are alternatives to mercury-based dental fillings.~~

~~(b) No provider shall claim a higher rate of reimbursement for alternative fillings provided to a Medi-Cal beneficiary who makes an election under subdivision (a) than the amount charged for providing dental services with Mercury-based dental fillings.~~

~~(c) Any dentist who participates in the Medi-Cal program shall post, in a conspicuous place, the Proposition 65 notice approved by the Superior Court for the City and County of San Francisco on January 7, 2003.~~

~~SEC. 2. Section 14132.27 is added to the Welfare and Institutions Code, to read:~~

~~14132.27. (a) For purposes of this section, "alternative restorative materials" means restorative materials other than mercury amalgam found on the Board of Dental Examiners of California's dental materials fact sheet.~~

~~(b) A provider of services that includes the provision of restorative dental fillings to a beneficiary under this chapter may prescribe, after consultation with the beneficiary, dental fillings that are an alternative to mercury amalgam dental fillings.~~

1 (c) A provider may claim and receive the reimbursement rate
2 for mercury amalgam fillings when prescribing alternative
3 restorative materials.

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